

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
FEBRUARY 8, 2017**

**CALL TO
ORDER
6:01 pm**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the South Campus Building, 40 11th Street W, Ste. 200, Kalispell, Montana. Board members present were, Rita Hall, Sandra Nogal, Dean Sirucek, Ron Schlegel, Jim Heim, Jeff Larsen, Mike Horn and Greg Stevens. Kevin Lake had an excused absence. Mark Mussman and Erik Mack represented the Flathead County Planning & Zoning Office.

There were approximately 50 people in the audience.

**APPROVAL OF
MEETING
MINUTES
6:01 pm**

Schlegel made a motion, seconded by Hall to approve the January 11, 2017 meeting minutes.

**BOARD
DISCUSSION
6:01 pm**

None

**ASK THE
QUESTION
6:01 PM**

Sirucek asked the question.

**ROLL CALL TO
APPROVE
MEETING
MINUTES
6:01 pm**

On a roll call vote the motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)
6:02 pm**

None

**D&K
DEVELOPMENT
/THELMA
JOHNSON
(FZC-16-17)
6:02 pm**

A zone change request by WGM Group, on behalf of D&K Development, LLC and Thelma Johnson in the Westside Zoning District. The proposal would change the zoning on parcels containing approximately 200 acres from AG-80/WVO (Agricultural/West Valley Overlay) to SAG-5 (Suburban Agricultural). The subject properties are located at 1537 W

Springcreek Road and 1096 Stillwater Road near Kalispell.

**STAFF REPORT
6:02 pm**

Mack reviewed Staff Report FZC-16-17 for the Board.

**BOARD
QUESTIONS
6:05 pm**

None

**APPLICANT
PRESENTATION
6:05 pm**

BJ Grieve-WGM Group, Inc.-151 Business Center Loop, Kalispell stated he represented the applicants. Applicants reviewed 4 different plans for compliance with this zone change. The Kalispell City-County Master Plan, Growth Policy, Kalispell Growth Policy and West Valley Neighborhood Plan. He talked about urban reserve area in Kalispell GP, utilizing clustering within the SAG-5 and how he feels the plan complies with FWP request for clustering to provide for migratory corridors.

**BOARD
QUESTIONS
6:08 pm**

None

**AGENCY
COMMENTS
6:08 pm**

None

**PUBLIC
COMMENT
6:08 pm**

None

**APPLICANT
REBUTTAL
6:09 pm**

None

**BOARD
QUESTIONS
6:09 pm**

None

**STAFF
REBUTTAL
6:09 pm**

None

**BOARD
DISCUSSION
6:13 pm**

None

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC-16-17)
6:09 pm**

Heim made a motion seconded by Schlegel to adopt Staff Report FZC-16-17 as Findings-of-Fact.

**BOARD
DISCUSSION
6:10 pm**

None

**ASK THE
QUESTION
6:10 pm**

Larsen asked the question.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-16-17)
6:10 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-16-17)
6:11 pm**

Schlegel made a motion seconded by Hall to adopt Staff Report FZC-16-17 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION
6:11 pm**

Stevens commented on density and in-fill stating he thought different densities were a good thing.

**ASK THE
QUESTION
6:14 pm**

Larsen asked the question.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-16-17)
6:14 pm**

On a roll call vote the motion passed 7-1 with Sirucek dissenting.

**NMAR TEXT
AMND (VRBO)
(FZTA-16-04)
6:15 pm**

A request from the Northwest Montana Association of Realtors to amend the text of the *Flathead County Zoning Regulations*. The applicants are requesting to add "Short-term Rental Housing as a conditional use in the following zones: AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, R-1, R-2, R-3, R-4, R-5, RC-1, RA-1, Little bitterroot Lake, West Valley, Rogers Lake, Ashley Lake, Labrant/Lindsey Lane, North fork, and Lakeside. If the amendment is adopted, Short-term Rental Housing will be allowed in these districts with an approved Administrative Conditional Use Permit. The amendment further requests to add performance standards for short-term rental housing to Chapter 4 of the *Flathead County Zoning Regulations*. Short-term Rental Housing or vacation rentals will continue to be permitted uses in the following zones: BR-2, BR-4, and CVR.

**STAFF REPORT
6:15 pm**

Mussman reviewed Staff Report FZTA-16-04 for the Board.

Mussman stated the staff recommends that North Fork be removed from the application as an Administrative Conditional Use Permit.

Changes to the performance standards recommended by staff:

The contact information for the local contact person or management company shall be sent via certified mail by the applicant to all property owners within 150 feet of the property applying for Short-term Rental Housing. (Staff recommends this contact information be included in the notice.)

The property being utilized as Short-term Rental Housing shall have a minimum of two off-street parking spaces. (Staff recommends this be 1 parking space per bedroom.)

After considering public comment from Bigfork and Lakeside an additional performance standard should be added that states:

"An approved Administrative Conditional Use Permit for short term rental housing should be restricted to one dwelling unit on the subject property. The primary single family dwelling or accessory dwelling unit may be utilized as short term rental housing but in no cases can both be used as short term rental housing."

**BOARD
QUESTIONS
6:20 pm**

Sirucek asked about the differences between North Fork's plan and the text amendment.

Mussman stated that in the North Fork, guest cabins and rental cabins are an allowed use.

Stevens asked if the Board of Adjustment had the authority to condition a permit if complaints were received.

Hall had a problem limiting the amount of people per bedroom.

Mussman went over the reasoning behind the limit.

Larsen asked about limiting the use to one dwelling unit per property.

**APPLICANT
PRESENTATION
6:22 pm**

Erica Wirtala-100 Cooperative Way, Kalispell-stated she is representing the Northwest Association of Realtors. She went over the application process and pricing. She talked about the rating system for short term rentals and stated that these homes are typically the best kept homes on the block because of this. She spoke about the need for regulations on short term rentals and how this income helped not only the applicant but the community as a whole. She spoke about this proposal protecting the applicant, the neighbors and the general public that utilize vacation rentals.

Wirtala addressed some of the concerns raised by Citizens for a Better Flathead (CFBF): 1) site plans with number of bedrooms; this is already part of the application process. 2) CFBF wanted a 45 day notice period; Wirtala felt this was not warranted as most people respond right away. 3) Limiting the number of VRBO's in a neighborhood; Wirtala stated this would be hard to enforce.

**BOARD
QUESTIONS
6:28pm**

Schlegel asked about VRBO's in Whitefish.

Wirtala stated Whitefish had a plan in effect.

Sirucek asked how the NMAR became involved.

Wirtala explained the process that they went through.

**AGENCY
COMMENTS**

None

7:18 pm

**PUBLIC
COMMENT
7:20 pm**

Forest Nelson-264 El Rancho Road, Kalispell-talked about three (3) things that VRBO's offer. 1) The value between host and renter, 2) Trust and security, 3) Types and themes.

Clell Hoffman-4497 Ashley Lake Road, Kalispell-was concerned about how staff would deal with the additional permits. He also wanted Ashley Lake excluded.

Alan McNeil-stated he had a place in the North Fork and stated they already had a thorough plan in place.

Pierce Cummings-704 2nd Ave West, Kalispell-stated that the people running VRBO's take pride and care of their property. He felt this was a good way for people in the valley to supplement their income and keep them in their home. He was also concerned with limiting the number of people per bedroom saying it should be based on square footage instead.

Susan Johnson-474 Electric Ave #B, Bigfork-was concerned with policing short term rentals. She wanted all short term rentals to go into a data bank, and wanted all short term rentals to be brought into compliance.

John Bourquin-1455 Middle Pierce Lane, Bigfork-stated he felt strict regulations needed to be passed regarding short term rentals and did not want the Board to make any hasty decisions. He stated his comments were in a letter that the Board had.

Mayre Flowers-Citizens for a Better Flathead-stated the organization was not taking a position either for or against this issue. She wanted to make sure that everyone's property rights were respected. She felt Neighborhood plans should be able to provide their own standards for VRBO's. She handed out comments to the audience. She had several suggestions for additional regulations which the Board received in their packets.

Sharon DeMeester-415 Chestnut Drive, Kalispell-stated she uses her home in Glacier as a VRBO and it pays for the taxes on her other properties. She spoke about the fees involved in running a VRBO including advertising, online payments, cleaning, and insurance. She has never had any problems with her VRBO.

Michelle Ahern-175 Boone Road, Somers-stated she owns a Bed and Breakfast and she is in favor of regulations for short term rentals. She felt this would level the playing field for Bed and Breakfast owners as they are already regulated and inspected.

A Pfeifer-258 White Pine Road, Kalispell-stated the only way she travels is by VRBO's. She was concerned with the impact short term rentals would have on long term rentals. She stated she had employees that could not find housing now. She wanted short term rentals limited to one per person.

Monica Harris-500 Wild Swan Trail, Bigfork-stated she had a short term rental for 4 years. She spoke about the shared economy, and stated that short term rentals would allow people to keep their homes.

Karia Pettey-525 Moose Creek Road, Polebridge-was concerned with the timing stating a lot of residents were out of town during the winter months. She was also concerned with the amount of work short term rentals would generate for the County and wanted to know how the County would be able to handle it.

Benjamin Lard-254 Caroline Point Road, Lakeside-stated he uses his home as a short term rental which was the only way he could afford to keep it. He was concerned with limiting the number of people per bedroom.

Jackie Gray-300 Tronstad Rd-Kalispell-thought it was a good idea, but wanted to make sure the property owner was taken care of.

Denise Grenier-155 Echo Chalet Dr-Bigfork-stated she was in favor of the proposal. She owned Eagle Bend Vacation Rentals for 28 years with very few problems.

Cliff Palmer-378 Wild Swan Trail-Bigfork-felt the amendment was too broad. He was concerned with the volume of people in a rental and how many buildings on a property would be allowed to be used.

Cheryl Palmer-378 Wild Swan Trail-Bigfork-wanted one (1) vacation rental per parcel. She was concerned about wetlands.

Steve Pleasants-533 Spokane Ave, Whitefish-stated he had a vacation rental. He stated this industry was self-policing as it

relied on good reviews to stay in business. He did not feel additional regulations were needed.

Jill Zignego-157 Sherwood Lane-Kalispell-approves of the text amendment but felt it needed more work.

Glenda Brown-330 Goodrich Road, Kalispell-had a short term rental and has never had a problem. She stated this was a comment driven industry, therefore the homes had to be in great shape.

Ruth Skaggs-4853 Ashley Lake Road-Kila-was opposed to the regulation. She felt this text amendment usurped the neighborhood plans.

Alan Habel-111 Pheasant Dale Way, Kalispell-was concerned about the fees and also the inspections by local fire departments. He felt this could put an undue burden on some of the volunteer fire departments.

Lisa Gilbert-500 Wild Swan Trail-Bigfork has had a vacation rental for the past 4 summers. She spoke about some of the reviews her vacation rental had received.

Andrea Aiken-1056 Rocky Meadows Trail, Kalispell-stated she thought the people running these vacation rentals now were doing a good job and did not want the focus to change from the property owner to a county agency.

**BOARD
QUESTIONS
9:00 pm**

Sirucek asked Jill Zignego how she thought the process should be amended.

Zignego stated more detail should be added to the permit process regarding the neighborhood, regarding how long the person applying has been in business and if there have been any problems in the past.

Larsen asked about limiting the number of dwelling units that could be used as vacation rentals.

Mussman explained the reasoning behind this.

The Board discussed accessory dwelling units at length.

The Board took a 10 minute break.

**APPLICANT
REBUTTAL
9:30 pm**

Wirtala addressed several comments from the public stating NMAR did not want to include houseboats. She felt putting a cap on vacation rentals in the County would create a property rights issue. She spoke about the timing of the application; explaining the length of time it takes to process a text amendment through to the end. She explained the difference between a bed and breakfast and a short term rental. She addressed the comments regarding fees and the comment regarding neighborhood plans.

**BOARD
QUESTIONS
9:35 pm**

Heim asked about changing the definition of dwelling unit by deleting the “with stays of 30 days or longer” part of the definition.

Wirtala addressed this.

**STAFF
REBUTTAL
9:41 pm**

Mussman addressed comments regarding putting a cap, having so many in a neighborhood could lead into some type of regulatory takings claims. He stated that none of the neighborhood plans addressed rentals whether short or long term. Mussman addressed concerns about workload.

**BOARD
QUESTIONS
9:47pm**

Schlegel asked about removing the ‘30 days or longer’ part of the definition from dwelling unit.

The Board discussed this at length.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZTA-16-04)
10:01 pm**

Sirucek made a motion seconded by Nogal to adopt Staff Report FZTA-16-04 as Finding of Fact.

**BOARD
DISCUSSION
10:02 pm**

None

**ASK THE
QUESTION
10:02 pm**

Sirucek asked the question.

**ROLL CALL TO
ADOPT F.O.F.
(FZTA-16-04)
10:02pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZTA-16-04)
10:03 pm**

Sirucek made a motion seconded by Stevens to adopt Staff Report FZTA-16-04 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION
10:03 pm**

Stevens thanked the public for their comments. He talked about this industry being a self-policing industry and questioned whether more regulations were needed or not. He talked about amending the definition of dwelling unit.

Heim agreed with amending the definition.

Schlegel stated he learned a lot from the public comment. He also talked about changing the definition of dwelling unit.

Sirucek stated that changing the definition would mean that the only alternative for problems would be going to court.

Horn was also in favor of changing the definition.

Larsen stated he also learned a lot from public comments. He felt that just changing the definition would be very controversial.

Mussman talked about some of the issues with changing the definition including the loss of revenue from bed taxes.

Stevens agreed and stated that it would be nice for the neighbors to have an alternative to going to court for problems.

**MOTION TO
WITHDRAW
10:38 PM**

Sirucek made a motion seconded by Stevens to withdraw his motion to approve.

**MOTION TO
TABLE TO A
DATE CERTAIN
10:36 pm**

Sirucek amended his motion seconded by Nogal to table this application to a date certain of March 8, 2017.

**BOARD
DISCUSSION
10:39 pm**

None

ROLL CALL TO TABLE On a roll call vote the motion passed unanimously.
10:39 pm

OLD BUSINESS None
10:40 pm

NEW BUSINESS None
10:40 pm

ADJOURNMENT The meeting was adjourned at approximately 10:42 pm on a
10:42 pm motion by Schlegel. The next meeting will be held on March 8, 2017 at 6:00 pm.



Jeff Larson, Chairman



Danene Thornton, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 3 / 8 / 17